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Justice for Children: The Recommendations of the Judiciary Subcommittees on Juvenile Justice

March, 1979

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**JUDICIARY SUBCOMMITTEES
ON JUVENILE JUSTICE**

Room 501, State Capitol
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March 12, 1979

The Honorable Kenneth J. Rothman
Speaker of the House of Representatives
Missouri General Assembly

The Honorable Norman L. Merrell
President Pro Tem of the Senate
Missouri General Assembly

Dear Sirs:

We respectfully submit to you the recommendations of the House and Senate Judiciary Subcommittees on Juvenile Justice as adopted on March 7, 1979. The committee recommendations are in response to problems in Missouri's juvenile justice system as outlined in the committee's report, "Justice for Children: The Interim Report of the Judiciary Subcommittees on Juvenile Justice."

Statutory changes are necessary to implement some of the recommendations. The committee has also recommended further study of some of the problems in order to develop effective juvenile justice policy.

Your continued interest in and support of this legislative effort to improve Missouri's services for youth is appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marvin L. Dinger".

Senator Marvin L. Dinger
Chairman, Senate Subcommittee

A handwritten signature in dark ink, appearing to read "Gary L. Smith".

Representative Gary L. Smith
Chairman, House Subcommittee

FOREWORD

The Judiciary Subcommittees on Juvenile Justice consist of four members of the Senate Judiciary Committee and four members of the House Judiciary Committee. These subcommittees were appointed in the summer of 1978 to direct a review of Missouri's laws and programs relating to children. The leadership of the Missouri General Assembly and the chairmen of the Judiciary Committees recognize the importance of the legislature in making juvenile justice policy and have given the subcommittees the task of collecting and analyzing information with respect to the juvenile justice system, providing a forum for discussion of the issues, and developing alternative policies and legislative recommendations. The subcommittees first met on August 31, 1978 in Jefferson City and agreed to meet and work jointly to conduct this review of juvenile justice.

During the fall of 1978 public hearings were held in Kansas City, Cape Girardeau, St. Louis, and Springfield. Testimony was invited on Missouri's juvenile code, problems, issues of concern, or criticisms of practices in the juvenile system, and suggested solutions or policy changes.

In addition to conducting these public hearings, the subcommittees also participated in meetings of interested organizations, met with juvenile justice professionals, and encouraged members of the Missouri General Assembly to submit their views on problems and solutions in the field of juvenile justice. Information was also gathered by staff interviews and correspondence with juvenile justice personnel across the state.

The subcommittees issued a report entitled, "Justice for Children: The Interim Report of the Judiciary Subcommittees on Juvenile Justice." It includes descriptions of Missouri's juvenile justice system and laws, and a discussion of some of the problems that were called to the attention of the committee. The committee finds that statutory changes are necessary to resolve some of these problems. Other problems warrant further study. Accordingly the subcommittees have adopted the following seventeen recommendations.

COMMITTEE RECOMMENDATIONS

RECOMMENDATION 1. Routine traffic violations by sixteen year olds and over should be removed from the jurisdiction of the juvenile court, except for violations constituting felonies.

Removal of juvenile court jurisdiction over routine traffic offenses committed by sixteen year old licensed drivers would significantly reduce the caseload of juvenile courts, perhaps by as much as one-third. It is felt that sixteen year olds who are sufficiently mature to be entrusted by the state with a driver's license should be subject to the same penalties for traffic violations as adults, including accrual of points. Commission of a minor traffic offense is not evidence of delinquency and of a need for rehabilitative treatment to the same extent as are more serious criminal offenses. The National Council on Crime and Delinquency Standard Juvenile Court Act recommends that minor traffic offenses committed by juveniles be handled by adult traffic courts, and the Institute for Judicial Administration/American Bar Association recommended that the minimum driving age of a state should be the age at which juvenile court jurisdiction over minor traffic offenses ceases and adult traffic court jurisdiction begins. The laws of thirty-three of the states now provide for disposition of minor traffic offenses in the traffic courts, while retaining juvenile court jurisdiction over more serious offenses. (See "Justice for Children: The Interim Report of the Judiciary Subcommittees on Juvenile Justice", pp 14-15, and "A Comparative Analysis of Standards and State Practices: Jurisdiction—Delinquency", pp 31-33.)

RECOMMENDATION 2. Dispositional options available to the juvenile court should be expanded by authorizing courts to order restitution, reparation, or community service.

Juvenile courts in Missouri are courts of limited jurisdiction, and have only those powers specifically given to them by the legislature. Section 211.181, RSMo 1978, was recently amended to allow juvenile courts to impose reasonable conditions of probation, and this apparently would permit restitution as a condition of probation. But courts remain reluctant to experiment, and direct authorization is needed to encourage greater use of restitution. Restitution, reparation, or community service has been a historic practice in juvenile courts, although not made explicit in state statutes until recently. Various standard setting groups endorse the concept as long as sufficient procedural safeguards are provided in state law to meet constitutional standards. (See National Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention and Committee Interim Report, pp 22-23.)

RECOMMENDATION 3. The statutory description of types of behavior which subjects juveniles to juvenile court proceedings should be clarified and the sections describing abused, dependent, and neglected children (non-offenders) and status offenders (children who come before the court for committing an act that would not be a crime if committed by an adult) should be mutually exclusive, so that separate dispositions may be prescribed.

Section 211.031, RSMo 1978, as it now exists does not clearly make such distinctions.

RECOMMENDATION 4. The commitment of status offenders to the Division of Youth Services should be limited to those status offenders who have been adjudicated as such and are under juvenile court jurisdiction for a previous adjudication for either a status offense or a law violation.

The Division of Youth Services believes that status offenders should not be committed to it for care and treatment, but each year the division receives proportionately more status offenders. Complete elimination of the dispositional option of commitment to the division, however, would leave many communities with no place to send a child for residential care. The recommended change would reduce the number of juveniles sent to the division for status offenses, while still permitting commitment in some cases.

RECOMMENDATION 5. Status offenders committed to the Division of Youth Services should not be placed in its four institutions (The State Training Schools at Boonville and Chillicothe, The W. E. Sears Youth Center at Poplar Bluff, or The Hogan Street Youth Center at St. Louis).

Status offenders should not be housed in institutions with serious offenders but should be placed in the division's group homes or foster homes. It is the policy of the DYS to make such a separation, if possible. From July 1, 1978 through December 31, 1978, only five status offenders were housed in the four DYS institutions affected by this recommended change. (See Committee Interim Report, pp 34-37.)

RECOMMENDATION 6. The age of juvenile court jurisdiction over homeless, dependent, or neglected children should be raised to age eighteen so that these children may benefit from services offered by the Division of Family Services.

The Division of Family Services is authorized to accept children up to the age of eighteen for social services and care, if "legal custody is vested in the Division of Family Services." (Section 207.020, RSMo 1978) Because the juvenile court has no jurisdiction over children over the age of seventeen, it cannot transfer custody of homeless, neglected or dependent children to the DFS, resulting in the children being denied the benefit of counseling, medical services or foster care which could be paid for by the parent if the court so ordered, or by the division. The recommended change would extend juvenile court jurisdiction over homeless, dependent, and neglected children up to the age of eighteen, but would not affect status offenders or delinquent juveniles. (See Committee Interim Report, p. 17.)

RECOMMENDATION 7. The rehearing of decisions of commissioners should be discretionary on the part of the judge, and the time for filing a petition for a rehearing should be increased from ten days to fifteen days.

The recommended change would eliminate the problem posed by an aggressive public defender unit that could render the commissioner's work useless by requesting a rehearing of every case.

RECOMMENDATION 8. A juvenile court in instances of taking a child who resides in another county into custody should be required to notify the juvenile court of the county of the child's residence within seventy-two hours.

This change is recommended to prevent an instance of two juvenile courts handling the same juvenile without knowledge of the other court's involvement.

RECOMMENDATION 9. The confidentiality provision of the juvenile code should be modified so that juvenile records are accessible for the legitimate collection of data for research purposes.

Some state agencies have reported difficulties in obtaining data from juvenile courts, even though the agency is mandated by law to collect and analyze such data, because the courts have in some instances construed the confidentiality provisions in the juvenile code to prohibit the release of data.

RECOMMENDATION 10. The committee recommends further study of the confidentiality provisions in the juvenile code, with a view to amending them to permit more public awareness of juvenile court proceedings.

RECOMMENDATION 11. The Interstate Compact on Juveniles should be amended to provide for the interstate rendition of juveniles charged with delinquency.

The existing compact provides for interstate rendition of juveniles who are already under court or agency supervision, and of runaways, upon the request of the parent. But there is no uniform procedure for rendition of juveniles charged with acts of delinquency in Missouri but who have fled to another state. House Bill 450, introduced by Representative Carver, would remedy this by allowing rendition of such juveniles in a manner analogous to the extradition procedures used for adults. A number of other states have enacted this amendment to the compact, and witnesses at the hearings recommended Missouri adopt it.

RECOMMENDATION 12. Legislative review of the Division of Youth Services is necessary to determine whether the division is meeting specific statutory requirements and whether the intent of Senate Bill 170, which created the Division in 1975, is being followed.

The committee's review of the operation of the Division of Youth Services should include an assessment of whether the division is meeting its statutory requirements and the extent to which the legislature can help the division to carry out its responsibilities. The division is directed by statute to implement a statewide delinquency prevention effort, collect statistics and information relating to the nature, extent, cause of, and conditions contributing to the delinquency of children, develop standards relating to state and local delinquency control and rehabilitation programs, and plan for coordinated services to juveniles.

The committee's review of the Division of Youth Services should also include an evaluation of the effectiveness of the treatment modalities and programs used in the institutions. The aftercare program should also be scrutinized. (See Committee Interim Report, pp 33-40.)

RECOMMENDATION 13. The Department of Mental Health's delivery of mental health services to juvenile courts should be examined. Also, the subcommittees question the availability and quality of services that are being provided to juveniles who have been committed to the Department of Mental Health for psychiatric care and treatment. An evaluation of the department's services is warranted.

The committee questions the availability and quality of diagnostic and evaluation services provided both by the Psychiatric Services Division of the department and by non-state mental health facilities with which the division contracts. This problem should be explored to determine the extent to which juvenile courts in Missouri are receiving adequate diagnostic services, including emergency inpatient services. (See Committee Interim Report, pp 20-22.)

The committee's evaluation should attempt to provide information on the following questions: (a) Are juvenile courts regularly provided progress reports for juveniles in custody of the DMH, in those cases when the court retains jurisdiction? (b) Should the DMH include in its inpatient services a community-based facility for juveniles that offers treatment in a secure setting? (c) Do the catchment areas of the DMH create disparities in services available to Missouri's youth? (d) Does the DMH deliver services to emotionally disturbed children, or only those diagnosed as psychotic? (See Committee Interim Report, pp 31-33.)

RECOMMENDATION 14. Lack of coordination among state agencies in their delivery of services to Missouri's youth results in no services for specific groups of children, such as emotionally disturbed and marginally mentally retarded juvenile offenders. The committee should study this problem, and offer remedies.

The committee should oversee activities of state agencies to ensure that every child, regardless of the complexity of his problem, may receive services. The legislature assigned the Division of Family Services, the Division of Youth Services, and the Department of Mental Health the care and treatment of juveniles exhibiting certain behavioral characteristics. This assignment of separate responsibilities to each agency was intended to avoid duplication of services, and the broad descriptions of behavioral characteristics is to enable each agency to create a range of services to serve as many juveniles as possible. However, each agency has narrowed its responsibility, and the result is that a child in need of services may not fall within any of the service categories accepted by the agencies. (See Committee Interim Report, pp 44-46.)

The committee should study the effect of the rules and regulations promulgated by the agencies on coordination of service delivery. In addition to elimination of service gaps through agency cooperation, attention should be paid to coordination of licensing and auditing functions that may be duplicative. (See Committee Interim Report, pp 46-47.)

RECOMMENDATION 15. Legislative oversight is necessary to ensure that implementation of Sections 162.670 to 162.995, RSMo 1978, results in the provision of special educational services to all handicapped children under the age of twenty-one.

The subcommittees should review the standards promulgated by the Department of Elementary and Secondary Education to ensure they are in accordance with the intent of House Bill 474 enacted in 1973. Also, administrative procedures for certifying eligibility should be reviewed. (See Committee Interim Report, pp 51-52.)

RECOMMENDATION 16. The feasibility of state subsidies to units of government for regional residential facilities and local services and facilities should be assessed by the subcommittees. In some instances, children are committed to the Division of Youth Services because no alternatives exist in the community.

State subsidies to local units of government by the Division of Youth Services have been authorized since 1975 and in Fiscal Year 1979 are to be implemented on an experimental basis. The subcommittees should oversee this program and assess its effectiveness in reducing commitments of youth to the state.

RECOMMENDATION 17. The subcommittees should study the problem of the use of adult jails for the detention of juveniles pending adjudication, and the problem that counties have in adequately separating juveniles from adult law violators, as mandated by state law.

The committee finds that, after 22 years, many Missouri counties are in violation of a law passed by the legislature in 1957 which mandated separation of adult law violators from juveniles in jails. The committee recognizes that many counties cannot afford the costs of constructing and maintaining separate facilities for the detention of juveniles pending adjudication. Therefore, the committee should study the feasibility of alternatives such as regional detention facilities, emergency foster care, or group homes. (See Committee Interim Report, pp. 41-43.)

